

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In The Matter of)

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Billed Party Preference)

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For InterLATA 0+ Calls)

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CC Docket No. 92-77

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**RESPONSE OF THE COMPETITIVE
TELECOMMUNICATIONS ASSOCIATION
TO PETITIONS FOR RECONSIDERATION**

The Competitive Telecommunications Association ("CompTel"), by its attorneys, provides the following comments on the petitions for reconsideration of the Commission's *Second Report and Order* in the above-captioned docket.¹

I. BACKGROUND

For many years, this docket languished as the Commission considered a number of ill-advised, prohibitively-expensive and legally unsupportable proposals to deal with a perceived OSP "problem" that was being addressed by the market in any event. In November 1996, CompTel offered the Commission an alternative that dealt with consumer complaints of "surprise" rates directly, and without the legal, technical and financial obstacles barring previous proposals in this docket.² CompTel supported an oral rate availability disclosure for two reasons: (1) it built upon existing regulatory requirements and call processing systems in a way

¹ *In the Matter of Billed Party Preference for InterLATA 0+ Calls*, Second Report and Order and Order on Reconsideration, CC Docket No. 92-77, rel. Jan. 29, 1998 ("*Second Report and Order*"). Notice of the filing of Petitions for Reconsideration of the Second Report and Order was published in the Federal Register on April 21, 1998. 63 Fed. Reg. 19726 (Apr. 21, 1998).

² Further Comments of the Competitive Telecommunications Association, CC Docket No. 92-77 (Nov. 13, 1996).

that CompTel believed could be implemented relatively easily by OSPs and (2) it applied even-handedly to the entire operator services industry rather than making legally unsupportable attempts to distinguish between preferred and disfavored OSPs. As the Commission considers petitions seeking modification or clarification of the *Second R&O*, it must be careful to preserve these features of the 0+ rate availability proposal.

II. THE COMMISSION SHOULD NOT EXEMPT ONLY LECS FROM PROVIDING RATE DISCLOSURES ON 0+ INTRALATA CALLS

Several petitions question whether the Commission intended its rules to apply to intraLATA operator service calls.³ These petitions raise some meritorious arguments regarding whether intraLATA calls were ever considered part of the proposals advanced in this docket and whether application of the rule to the small number of interstate, intraLATA calls will unnecessarily intrude upon the States' authority over intrastate intraLATA calls, which constitute the substantial majority of the intraLATA market.⁴ The Commission should carefully weigh these considerations and determine whether, on balance, the disadvantages of applying rate disclosure to these calls outweigh any incremental benefit to be received from the oral disclosure.

The Commission should not, however, apply a rate disclosure requirement only to non-LEC OSPs, as Ameritech and US West argue. Arguments that the LECs should be excluded because their rates do not cause problems run counter to the carrier neutrality that is central to the *Second R&O*.⁵ The rate availability proposal avoids the legal pitfalls that doomed many of

³ Ameritech Petition at 13; Bell Atlantic Petition at 1; BellSouth Petition at 3; US West Petition at 5.

⁴ See, e.g., BellSouth Petition at 3; Bell Atlantic Petition at 2.

⁵ See Ameritech Petition at 15-16; US West Petition at 2.

the alternatives advanced in this docket precisely because it allows *consumers* to decide when a rate quote is important to them, and keeps the FCC out of deciding which carrier's rates to endorse and which are suspect. The Commission has not followed the statutory procedures for making the determination Ameritech and US West suggest, nor does it have a record sufficient to support any distinction among carriers.

Put simply, any decisions regarding when to require disclosure that rates are available should be based on the calling situation and the feasibility of providing disclosure in that situation, not on the carrier providing the disclosure. If the incremental benefit to consumers outweighs the drawbacks present in interstate intraLATA 0+ calling situations, rate disclosure should be provided on all interstate intraLATA 0+ calls by all intraLATA carriers. The Commission cannot and should not attempt to exclude those carriers whose rates it finds acceptable to it.

III. THE COMMISSION MUST NOT GRANT SPECIAL TREATMENT TO AT&T

AT&T requests clarification and/or reconsideration of several aspects of the new rules for the stated purpose of allowing AT&T to determine how much additional time it will request, in a forthcoming but as yet unfiled waiver request, from compliance with the *Second R&O*.⁶ CompTel takes no position on AT&T's specific questions, but welcomes any clarification of the generally-applicable requirements for providing rate disclosure by all carriers. CompTel is concerned with the potential that AT&T's chosen course may result in an impermissible benchmarking of the disclosure obligation, however.

⁶ AT&T petition at 2 n.2. (prompt resolution of petition "will assist AT&T in developing its final [waiver] specifications").


To date, AT&T has disclosed in this docket only its general "concern" that the July 1, 1998 implementation date will not be met.⁷ Thus, CompTel does not know at this time whether the difficulties AT&T has in mind are unique to it or are applicable more broadly to the operator services industry. CompTel notes, however, that other petitions have also raised concern over the feasibility of the July 1, 1998 implementation date. If AT&T's concerns are of a generally applicable nature, the concerns are more appropriately addressed in this reconsideration proceeding, rather than through a special exemption for AT&T.

As CompTel has repeatedly emphasized, the universal applicability of a rate disclosure requirement will benefit all consumers of interLATA 0+ calls, and is a key component of the legal foundation for the Commission's action. The Commission must be careful to ensure that AT&T's promised waiver petition does not become a back-door mechanism to benchmark the rate disclosure requirement.

Respectfully submitted,

THE COMPETITIVE TELECOMMUNICATIONS
ASSOCIATION

Genevieve Morelli
THE COMPETITIVE TELECOMMUNICATIONS
ASSOCIATION
1900 M Street, N.W., Suite 800
Washington, D.C. 20036
(202) 296-6650

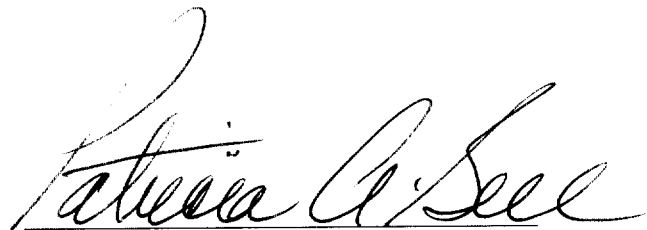

Robert J. Aamoth
Steven A. Augustino
KELLEY DRYE & WARREN, LLP
1200 19th Street, N.W., Suite 500
Washington, D.C. 20036
(202) 955-9600

Its Attorneys

⁷ Ex parte letter from Robert Castellano, AT&T, to Magalie Roman Salas, FCC, CC Docket No. 92-77 (Apr. 3, 1998).

CERTIFICATE OF SERVICE

I, Patricia A. Bell, hereby certify that I have, this 6th day of May, 1998, served a true and correct copy of the foregoing **RESPONSE OF THE COMPETITIVE TELECOMMUNICATIONS ASSOCIATION TO PETITIONS FOR RECONSIDERATION**, via hand delivery and/or first-class mail, postage prepaid to the attached service list.

A handwritten signature in cursive script, appearing to read "Patricia A. Bell", written over a horizontal line.

Patricia A. Bell

* - Hand Delivery

SERVICE LIST

Janice Myles*
Common Carrier Bureau
Federal Communications Commission
1919 M Street, N.W.
Room 544
Washington, D.C. 20554

International Transcription Service*
1231 – 20th Street, N.W.
Washington, D.C. 20036

Mark C. Rosenblum
Peter H. Jacoby
Richard H. Rubin
AT&T Corp.
295 North Maple Avenue
Room 3252I3
Basking Ridge, NJ 07920

Gary L. Phillips*
Ameritech
1401 H Street, N.W.
Suite 1020
Washington, D.C. 20005

Kathryn Marie Krause*
U S West, Inc.
1020 19th Street, N.W.
Suite 700
Washington, D.C. 20036

John M. Goodman*
Bell Atlantic Telephone Companies
1300 I Street, N.W.
Washington, D.C. 20005

M. Robert Sutherland
Theodore R. Kingsley
Bell South Corporation
1155 Peachtree Street, N.E.
Suite 1700
Atlanta, GA 30309-3610

Randall B. Lowe*
Piper & Marbury, L.L.P.
1200 19th Street, N.W.
Washington, D.C. 20036

Christopher A. Holt*
Yaron Dori
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, D.C. 20004-2608

Albert H. Kramer*
Robert F. Aldrich
Jack S. Farber
Dickstein Shapiro Morin & Oshinsky LLP
2101 L Street, N.W.
Washington, D.C. 20037-1526

Dana Frix*
Kathleen L. Greenan
Swindler, & Berlin, Chartered
3000 K Street, N.W.
Washington, D.C. 20007